

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

INVACARE CORPORATION,)	Case No.: 1:04 CV 1580
)	
Plaintiff)	
)	
v.)	JUDGE SOLOMON OLIVER, JR.
)	
RESPIRONICS, INC.,)	
)	
Defendant)	<u>ORDER</u>

Now pending before the court are Plaintiff Invacare Corporation's ("Plaintiff" or "Invacare") Motion for Leave to File Instant Surreply (ECF No. 69), and Defendant Respironics, Inc.'s ("Defendant" or "Respironics") Motion for Leave to File First Amended Answer (ECF No. 72). For the reasons outlined below, both motions are granted.

The court's Case Management Conference Order set a deadline of April 3, 2006, for filing amended pleadings. (ECF No. 59.) On April 3, 2006, Defendant requested leave to file an amended answer, stating four additional defenses to Plaintiff's complaint. (ECF No. 72.) Plaintiff has filed no objection. The court hereby grants Defendant's motion.

While Plaintiff has not put forth substantial reasons as to why the court should grant a surreply, the court will allow it since Plaintiff's surreply only cites new cases to support its legal theory and does not include new evidentiary material which would prejudice the Defendant.

For the foregoing reasons, Defendant's Motion for Leave to File First Amended Answer (ECF No. 72) is granted. Plaintiff's Motion for Leave to File Instanter Surreply (ECF No. 69) is also granted. The court will be issuing an order regarding Defendant's Motion for Summary Judgment (ECF No. 60) and Plaintiff's Motion for an Order Pursuant to Rule 56(f) Denying Respironics' Motion for Summary Judgment (ECF No. 62) in the very near future.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

September 28, 2006